

WORKERS' COMPENSATION INDUSTRIAL COUNCIL

JULY 18, 2013

Minutes of the meeting of the Workers' Compensation Industrial Council held on Thursday, July 18, 2013, at 1:00 p.m., Offices of the West Virginia Insurance Commissioner, 1124 Smith Street, Room 400, Charleston, West Virginia.

Industrial Council Members Present:

Bill Dean, Chairman
Kent Hartsog, Vice-Chairman
James Dissen
Dan Marshall

1. Call to Order

Chairman Bill Dean called the meeting to order at 1:05 p.m.

2. Approval of Minutes

Chairman Bill Dean: The minutes of the previous meeting were sent out. Did everybody have a chance to look them over? Is there a motion for approval?

Dan Marshall made the motion to approve the minutes from the May 30, 2013 meeting. The motion was seconded by Kent Hartsog and passed unanimously.

3. Office of Judges Report – Rebecca Roush, Chief Administrative Law Judge

Judge Rebecca Roush: It is good to see you all. This will be brief. I tendered my report to you earlier this morning. The trends in the report have remained the same, indicating that protests are still going down. We acknowledged 376 protests in the month of June. On page three, if you want to compare June of 2012 with June of 2011, you will see that the protests have dropped. And we project that we'll have around 4,600 protests this year in total. Other than that, there is really not a whole lot going on at the Office of Judges. Everything seems to be calm.

We are interviewing for an ALJ II position. We will start those interviews in the next couple of weeks. We did have a Judge retire this past month, so we're looking to

replace him as quickly as possible. We are also anticipating some fee petitions to be filed in response to the new legislation that recently was passed, but we have not yet received a request on that new law. Other than that, I'll take any questions you might have.

Chairman Dean: Mr. Marshall, do you have any questions?

Dan Marshall: No questions, Mr. Chairman.

Chairman Dean: Mr. Hartsog?

Kent Hartsog: No, sir.

Chairman Dean: Mr. Dissen?

James Dissen: No, sir.

4. General Public Comments

Chairman Dean: We'll move onto general public comments. Does anyone from the general public have anything they would like to bring up today? [No comments.]

5. Old Business

Chairman Dean: Does anybody from the Industrial Council have anything they would like to bring up under old business? Mr. Dissen?

Mr. Dissen: No, sir.

Chairman Dean: Mr. Hartsog?

Kent Hartsog: No, sir.

Chairman Dean: Mr. Marshall?

Dan Marshall: No, sir.

Chairman Dean: Commissioner Riley?

Michael Riley, Commissioner, OIC: No, sir.

Chairman Dean: Mr. Pauley?

Andrew Pauley, General Counsel, OIC: No, Sir.

6. New Business

Chairman Dean: We'll move onto new business. Mr. Dissen, do you have anything under new business that you would like to bring up?

Mr. Dissen: No, sir.

Chairman Dean: Mr. Hartsog?

Mr. Hartsog: No, sir.

Chairman Dean: Mr. Marshall?

Mr. Marshall: No, Mr. Chairman.

Chairman Dean: Commissioner?

Michael Riley, Commissioner, OIC: I have a couple of things. Obviously the workers' comp market seems to be very stable. Judge Roush's reports look as if the appeals are continuing to decline – not a whole lot of activity. So, if the Council would be amiable to possibly moving these to quarterly meetings, and then have special meetings as issues arise. We would like to throw that out for consideration.

Chairman Dean: Discussion on quarterly meetings?

Mr. Hartsog: I guess I would probably look at every other month maybe.

Commissioner Riley: Sure.

Workers' Compensation Industrial Council
July 18, 2013
Page 4

Chairman Dean: If we do them bi-monthly, Mr. Dissen, do you have a problem with that?

Mr. Dissen: No, I don't have a problem with that. It seemed to me when Bill Chambers was on the Council the question came up. . .and I thought it was something about holding the meetings. . .that there was some restriction.

Andrew Pauley, General Counsel, OIC: They have to be held at least once every quarter. There was some discussion last time about. . .we don't necessarily need to meet. . .We were thinking the load has been low, and we haven't had anything spectacular to deal with, so we thought about suggesting that the meetings be held quarterly. As you said, we can always call an emergency meeting or reconvene additional meetings if there is a concern on a particular item or topic.

Mr. Dissen: Oh, I'm fine with that. I just remembered Bill raising that issue at one time.

Mr. Hartsog: Right now we're doing about ten meetings a year and I think cutting it back to six, and then kind of seeing what happens, if that makes sense to everybody.

Mr. Dissen: That's fine with me.

Chairman Dean: Mr. Marshall, are you okay with that?

Mr. Marshall: I'm good with that.

Chairman Dean: Judge Roush, is that good with you?

Judge Roush: I'm good. Thank you.

Mr. Hartsog: Do you guys have any rules or anything that you're planning?

Commissioner Riley: We do not have anything on the agenda or see anything on the horizon. This is a great opportunity for us to communicate, and this is easy for us to come to, but I know you guys have to travel.

Chairman Dean: Is there anything else under new business?

Commissioner Riley: No. But I would like to let you know that Ryan Sims has moved on, and that's the reason he's not here. He found employment in the private sector. We appreciate all the good work he did here, and wish him luck.

Chairman Dean: Very good. Mr. Pauley, do you have anything?

Andrew Pauley, General Counsel, OIC: No, Sir.

7. Next Meeting

Chairman Dean: We'll move onto the next meeting. The next meeting will be September 19, 2013 at 1:00 p.m. Does that work for everybody? Do we need to advertise that?

Mr. Pauley: We'll do the Notice [to the Secretary of State's Office] for the public.

8. Executive Session

Chairman Dean: The next item on the agenda is related to self-insured employers. These matters involve discussion as specific confidential information regarding a self-insured employer that would be exempted from disclosure under the West Virginia Freedom of Information Act pursuant to West Virginia Code §23-1-4(b). Therefore it is appropriate that the discussion take place in Executive Session under the provisions of West Virginia Code §6-9A-4. If there is any action taken regarding these specific matters for an employer this will be done upon reconvening of the public session. Is there a motion to go into Executive Session?

Mr. Dissen: So moved.

Mr. Marshall: Second.

Chairman Dean: A motion has been made and seconded to go into Executive Session. Any question on the motion? All in favor, "aye." All opposed, "nay." The aye's have it. Motion passed.

[The Executive Session began at 1:14 p.m. and ended at 1:26 p.m.]

Workers' Compensation Industrial Council
July 18, 2013
Page 6

Chairman Dean: The Industrial Council has reconvened. The first Resolution will be for the following ten companies on Exhibit A:

City of Charleston
City of Fairmont
City of Huntington
City of Parkersburg
City of Wheeling
Cracker Barrel Old Country Store, Inc.
Kingsford Manufacturing Company
Royal Vendors, Inc.
St. Mary's Medical Center, Inc.
Wheeling Hospital, Inc.

Is there a motion to renew the self-insured status of the ten companies on Exhibit A?

Mr. Marshall: So moved, Mr. Chairman.

Chairman Dean: There is a motion. Is there a second?

Mr. Dissen: Second.

Chairman Dean: Is there a question on the motion? All in favor, "aye." All opposed, "nay." The aye's have it. Motion passed.

The next Resolution will be for the following company on Exhibit A:

Family Dollar Stores of West Virginia, Inc.

Chairman Dean: Is there a motion to renew the self-insured status of the company on Exhibit A?

Mr. Dissen: So moved

Chairman Dean: There is a motion. Is there a second?

Mr. Hartsog: Second.

Workers' Compensation Industrial Council
July 18, 2013
Page 7

Chairman Dean: Is there a question on the motion? All in favor, "aye." All opposed, "nay." The aye's have it. Motion passed. [Dan Marshall recused himself from voting on Family Dollar Stores of West Virginia, Inc.]

The third Resolution will be for the following companies on Exhibit A:

Appalachian Mine Services LLC
Eastern Associated Coal LLC
Pine Ridge Coal Company LLC
Rivers' Edge Mining, Inc.

Chairman Dean: Is there a motion to approve the self-insured status of the four companies on Exhibit A?

Mr. Marshall: So moved, Mr. Chairman.

Mr. Dissen: Second.

Chairman Dean: A motion has been made and seconded. Is there a question on the motion? All in favor, "aye." All opposed, "nay." The aye's have it. Motion passed. Any comments? [Kent Hartsog recused himself from voting on these four companies.]

Mr. Pauley: Just to be clear on the record. Mr. Hartsog, you recused yourself from those last four considerations. Is that correct?

Mr. Hartsog: Yes.

Mr. Pauley: Mr. Marshall, you recused yourself from the Family Dollar Stores of West Virginia?

Mr. Marshall: That is correct.

Chairman Dean: Is there any other business that needs to be conducted under the Industrial Council? Mr. Dissen?

Mr. Dissen: No.

Chairman Dean: Mr. Hartsog?

Mr. Hartsog: No.

Chairman Dean: Mr. Marshall?

Mr. Marshall: No, Mr. Chairman.

9. Adjourn

Chairman Dean: I'll entertain a motion for adjournment.

Mr. Marshall made the motion to adjourn. The motion was seconded by Mr. Dissen and passed unanimously.

There being no further business the meeting adjourned at 1:30 p.m.